

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

IN RE:)		
)		
GREGORY L. COLEMAN,)		Bankruptcy Case No. 99-31472
)		
Debtor.)		
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)		
JOHN MULLIGAN,)		
)		
Plaintiff,)		
)		
vs.)		Adversary Case No. 99-3197
)		
GREGORY L. COLEMAN,)		
)		
Defendant.)		

OPINION

The issue before the Court is whether the Debtor, in violation of 11 U.S.C. § 523(a)(6) of the Bankruptcy Code, willfully and maliciously injured the Plaintiff when he signed a complaint against the Plaintiff with the local police that resulted in the Plaintiff being charged with disorderly conduct. The parties to this dispute are pretty much in agreement that, in September 1997, the Debtor took his lawnmower tire to the Plaintiff's shop to be repaired. They also agree that the Plaintiff waited on two or three other customers before he could get to the Debtor's tire. The parties disagree on about everything else that was said and done at this point. The Plaintiff claims that the Debtor was "breathing down his neck" attempting to get him to move faster. Both parties agreed they argued, but Plaintiff said essentially that he told Debtor to take his business elsewhere. The Plaintiff said that Debtor threatened to have him charged. The

Debtor's story was much different in that he claimed the Plaintiff threatened him with a tire tool, threatened to beat him with barbed wire, and made numerous racial slurs against him.

The parties agreed that they separated, and the Debtor went to the local police and signed a complaint that resulted in the Plaintiff's arrest for disorderly conduct. The case against the Plaintiff in the State Court was dismissed.

The result in this case turned on the credibility of the Plaintiff and Debtor. This Court believed, at the conclusion of the trial, that the Plaintiff was not credible. On the other hand, the Debtor was a credible witness on his own behalf, and the Court believed him. The question here is whether the Debtor was justified in filing a complaint with the police against the Plaintiff. The Court believed the Debtor's story and found that he was justified and had probable cause to sign the complaint.

Section 523(a)(6) of the Bankruptcy Code makes a debt non-dischargeable for any willful and malicious injury caused by a debtor to another person. The United States Supreme Court held in Kawaauhau v. Geiger, 523 U.S. 57, 118 S.Ct. 974, 140 L.Ed.2d 90 (1998), that the concept of willfulness as used in 523(a)(6) means that the debtor must act with the express intent to harm the other party rather than merely act intentionally in a way that resulted in harm. It was clear in this case that the Debtor had full justification in signing the complaint, and that he did not intend to harm the Plaintiff.

This Court finds the Plaintiff's claim to be dischargeable.

ENTERED: November 2, 2000.

/s/ GERALD D. FINES
United States Bankruptcy Judge